

**REGULAR CITY COUNCIL MEETING
FRISCO MUNICIPAL COMPLEX
8750 MCKINNEY ROAD
COUNCIL CHAMBERS
FRISCO, TEXAS 75034
5:30 P.M.**

NOVEMBER 4, 2003

MINUTES

1. Call to Order.

Mayor Simpson called the meeting to order at 5:30 p.m. and announced a quorum was present.

Those present were: Mayor Simpson, Mayor Pro-Tem Maso, Council member Allen, Council member West, Council member Felker and Council member Joyner.

Excused absence: Deputy Mayor Pro-Tem Lafata.

Those representing staff were: City Manager George Purefoy, Deputy City Manager Henry Hill, Assistant City Manager Scott Young, Assistant City Manager Jason Gray, Director of Planning & Development John Lettelleir, Director of Engineering Cissy Sylo, City Attorney Julie Fort and City Secretary Nan Parker

2. Recess into Closed Session in compliance with Section 551.001 et. seq. Texas Government Code.

Council member West moved to recess into Closed Session at 5:30 p.m. Council member Joyner seconded the Motion. Motion carried. Vote: 5-0.

Mayor Simpson announced the Council was in Closed Session at 5:30 P.M. to wit:

- a) Section 551.087. Deliberation regarding commercial or financial information that the City has received from a business prospect and to deliberate the offer or other incentives to a business prospect.
- b) Section 551.072. To deliberate the purchase, exchange, lease or value of real property located:
 - i. south of Eldorado Parkway, north of Stonebrook Parkway, east of Teel Parkway, and west of SH 289;
 - ii. south of FM 3537, north of Warren Parkway, east of Dallas North Tollway, and west of Hillcrest Road.

- iii. south of Main Street, north of Lebanon Road, east of Teel Road, and west of Dallas North Tollway, and
- iv. northwest corner of Eldorado Parkway and Independence Parkway
- c) Section 551.071. Meeting with City Attorney regarding a matter(s) in which the duty of the City Attorney under the Texas Disciplinary rules of Professional Conduct of the State Bar of Texas conflicts with the Open Meetings Act regarding:
 - i. City's underground utility ordinance
 - ii. Boundary issues with McKinney and The Colony
 - iii. The Ghost Ranch and Wayne Kirk

3. Reconvene into Regular Session and take any action necessary as a result of the Closed Session.

Council member Felker moved to reconvene into Regular Session at 6:55 p.m. Council member Joyner seconded the Motion. Motion carried. Vote: 4-0. There was no action taken as a result of the Closed Session.

4. Proclamations.

Mayor Simpson presented a Proclamation for Municipal Court Week to the employees of Municipal Court.

5. Invocation.

Billy Echols-Richter Pastor of Grace Avenue Methodist Church offered the prayer.

6. Pledge of Allegiance

Boy Scout Troop Pack 290, Den 5, second graders from Fisher Elementary, led the audience in the Pledge of Allegiance.

7. Citizen Input.

Nina Barr stated that the Scary Movie in the Park was very successful, although it had to be held inside the Library due to inclement weather. She stated there were over 130 people in attendance.

8. Reports.

- a) Introductions of Gordon Barr, Chairman of the CVB Board, and Ed Thatcher, Interim Executive Director of the CVB – Introductions were made. Mr. Barr stated the Board is meeting twice monthly.
- b) Fire Department Monthly Report – Chief Mack Borchardt
- c) Planning & Development Monthly Report – John Lettelleir

- d) Parks and Recreation Monthly Report – Rick Wieland
- e) Engineering Services Monthly Report – Cissy Sylo
- f) Project Status Tracking Reports

Discussion only, no formal action was taken.

9. Consent Agenda:

The Consent Agenda was considered for approval. Council member Joyner moved to remove 9J for separate discussion. Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

Council member Allen moved to approve the Consent Agenda, excluding 9J. Council member Felker seconded the Motion. Motion carried. Vote: 5-0.

- A) Consider and act upon the approval of the Minutes of the October 21, 2003 Regular City Council Meeting. (City Secretary)
- B) Consider and act upon ratification of Council action and adoption of **Resolution 03-11-210R** authorizing the City Manager to enter into Agreement by and between the City of Frisco and L.B. Eaton for the purchase of real property located at the northwest corner of Eldorado Parkway and Independence Parkway. (City Manager)
- C) Consider and act upon approval of a Tower Site Lease Agreement by and between the City of Frisco and Arch Wireless Operating Company, Inc. and adoption of **Resolution 03-11-211R** authorizing the City Manager to execute the Agreement. (City Manager's Office/KH)
- D) Award of Proposal Number 0309-091 to Maximus, Inc. for a Utility Rate Study Project in the amount of \$24,500.00 and adoption of **Resolution 03-11-212R** authorizing the City Manager to execute an engagement letter. (Administrative Services)
- E) Approval of purchases in the amount of \$150,000.00 for Library book materials during the FY 2004 from Book Wholesalers, Inc. and Brodart Books. (Library)
- F) Acceptance of a proposal for geo-technical investigations and reporting services from Fugro South, Inc. in the amount of \$5,797.50 and approval of **Resolution 03-11-213R** authorizing the City Manager to execute the proposal. (Parks and Recreation)
- G) Award of Bid Number 0306-074 to Kimark Systems, Inc. for annual water and wastewater SCADA System Maintenance. (Public Works)

- H) Approval of purchase of a hydraulic excavator from Continental Equipment in the amount of \$187,924.00. (Public Works)
- I) Award of Bid Number 0310-001 to Jagoe-Public Company for improvements to the intersection of FM 423, FM 720, and Kings Road in the amount of \$242,288.85 and adoption of **Resolution 03-11-214R** authorizing the City Manager to enter into an Agreement for Construction Services. (Engineering)
- J) **Consider and act upon contingent Assignment of a Reclaimed Water Use Agreement by and between the City of Frisco and National Golf Operating Partnership, L.P. (City Manager)**

Following discussion, Council member Joyner moved to approve. Council member Felker seconded the Motion. Motion carried. Vote: 5-0.

END OF CONSENT AGENDA

10. Legislative Agenda:

The Legislative Agenda was considered for approval. Council member Joyner moved to remove Item 10B for separate discussion. Council member Felker seconded the Motion. Motion carried. Vote: 5-0.

Council member Allen moved to approve the Legislative Agenda, excluding 10B. Council member West seconded the Motion. Motion carried. Vote: 5-0.

- A) Adoption of **Ordinance No. 03-11-92** therein rezoning 1.0± acre at the southeast corner of Hickory Street and Fifth Street from Agricultural to Office-1 and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #20. Zoning Case Z03-0025. Applicant(s): Windsor Staff Management. (Planning & Development)
- B) **Consider and act upon adoption of an ordinance to amend zoning exhibits "A" and "D" for Planned Development-157-Single Family-5/Retail on 611.6± acres located on the north side of Eldorado Parkway. 1.400± feet east of F.M. 423 and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #49. Applicant(s): Buescher Homes. Zoning Case Z02-0027 (Planning & Development)**

Council member Joyner moved to **table until the November 18 Meeting**. Council member Felker seconded the Motion. Motion carried. Vote: 5-0.

- C) Adoption of **Ordinance No. 03-11-93** to amend Section 7.09 of the Subdivision Regulation Ordinance adding requirements for developments to provide city utilities to serve adjacent properties and provisions for the extension of city utilities with the construction of the thoroughfares. In addition, Section 7.09 will be revised to reflect the current requirements of the Engineering Design Standards and Construction Details. Subdivision Amendment SA03-0001. Applicant(s): City of Frisco. (Planning & Development)
- D) Adoption of **Ordinance No. 03-11-94** to amend Section 9 of the Subdivision Regulation Ordinance regarding a modification to the maintenance period after final acceptance of public improvements by the City. Applicant(s): City of Frisco. Subdivision Amendment SA03-0002. (Planning & Development)
- E) Adoption of **Ordinance No. 03-11-95** to amend Section 7.09(12)(C) of the Subdivision Regulation Ordinance to update the requirements for residential street lighting. Subdivision Regulation Ordinance Amendment SA03-0005. Applicant(s): City of Frisco. (Engineering)

END OF LEGISLATIVE AGENDA

Regular Agenda:

11. Public Hearing regarding Frisco's participation in the Regional Arts District. Continued from 10/21/04 (City Council)

Ken Pardue addressed the Council speaking in favor of proceeding with the sale of the \$19 million bonds and participating in the Regional Arts District.

Bob Chambers was present to address the Council and urged the Council to call an election to re-vote the bond issue for the \$19 million Regional Arts District.

Christy McWilliams was present to address the Council and stated that she had voted in favor of the Arts District in September 2002. She requested the Council move forward with the Regional Arts District.

There being no one else present to speak for or against the request, Council member Allen moved to close the Public Hearing. Council member West seconded the Motion. Motion carried. Vote: 5-0.

No action taken, public hearing only.

12. Consider and act upon giving staff direction regarding Frisco's participation in the regional Arts District. Tabled 10/21/03 (City Council)

Council member Allen moved to remove the item from the table. Council member Felker seconded the Motion. Motion carried. Vote: 5-0.

Following discussion, Mayor Pro-Tem Maso moved to **table the item until November 18, 2003**. Council member Joyner seconded the Motion. Vote: 3-2. Voting for: Council member Felker, Council member Joyner, and Mayor Pro-Tem Maso. Voting Nay: Council member Allen and Council member West. **Motion did not carry** due to the lack of four council members voting in favor of the item as required by the Home Rule Charter.

Council member Felker moved to move forward with the procedures to conduct an election in February for a revote. **Motion died** for lack of a second.

Council member West moved to proceed forward with the Arts District as it stands. Council member Allen seconded the Motion. Vote: 2-3. Voting for: Council member Allen and Council member West. Voting Nay: Mayor Pro-Tem Maso, Council member Joyner, and Council member Felker **Motion did not carry** due to the lack of four council members voting in favor of the item as required by the Home Rule Charter.

Council member Allen moved to **table the item until November 18, 2003 Meeting**. Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

13. Consider and act upon approval of a Resolution authorizing the City Manager to enter into an Agreement by and between the City of Frisco and Charlie J. Wade, James A. Wade, Pansy Wade Family Limited Partnership, and Weston Grain Co., Inc. for the purchase of 19+ acres of land that is located east of Preston Road and south of Wade Boulevard. (Parks and Recreation)

Jennifer Granberry was present to address the Council. She stated that she felt the city had not provided ample information regarding selection of the Wade Tract for the site of the Recreation/Aquatic Center. She requested more detailed information prior to the selection of the site.

Following discussion, Council member Allen moved to **table the item until the November 18 meeting**. Council member West seconded the Motion. Motion carried. Vote: 5-0.

14. Public Hearing: Zoning Case Z03-0020. A request to rezone 4.3+ acres From Agricultural to Planned Development-Single Family-3 located 710+ feet south of Eldorado Parkway and 2,300± feet west of Custer Road and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #15. Applicant(s): Shaddock Developers Ltd. (Planning & Development)

Council member Allen moved to open the Public Hearing. Council member West seconded the Motion. Motion carried. Vote: 5-0.

Charlie Holland was present to address the Council requesting their approval of the request as submitted.

There being no one else present to speak for or against the request, Council member West moved to close the Public Hearing. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Council member Allen moved to **approve** the rezoning as requested subject to adoption of the Ordinance. Council member Joyner seconded the Motion. Motion carried. Vote: 5-0.

15. Public Hearing: Zoning Case Z03-0006. A request to rezone 92.8+ acres on the south side of U.S. 380, 300+ feet east of Dallas Parkway from Agricultural to Industrial and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #53. Applicant(s): Craig Curry. (Planning & Development)

Council member Joyner moved to open the Public Hearing. Council member Felker seconded the Motion. Motion carried. Vote: 5-0.

There being no one present to speak for or against the request, Council member West moved to close the Public Hearing. Council member Joyner seconded the Motion. Motion carried. Vote: 5-0.

Council member West moved to **approve** the request subject to the recommendations of the Planning & Zoning Commission and the adoption of the Ordinance. Council member Allen seconded the Motion. Motion carried. Vote: 4-1. Voting Aye: Council member Allen, Council member West, Mayor Pro-Tem Maso Council member Joyner. Voting Nay: Council member Felker. Council member Felker stated that he voted Nay due to the lack of the legal description of the entire tract.

16. Public Hearing: Zoning Case Z03-0022. A request to rezone 70.0+ acres on the east side of Teel Parkway, 1,000+ feet north of Eldorado Parkway from Planned Development-131/Single Family-4 (58.0+ acres) and Agricultural (12.0+ acres) to Planned Development/Single Family-4 and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #48. Applicant(s): Spiars Engineering, Inc. (Planning & Development)

John Lettelleir reviewed the request with the Council. Mr. Lettelleir stated that this is the first Alternative Subdivision Design subdivision to be developed within the City. He stated he City is receiving additional trees, six foot sidewalks around the lake and adjacent to the open space.

Council member West moved to open the Public Hearing. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Tim Spiars, Spiars Engineering, representing the applicant was present to address the Council requesting their approval of the request.

They're being no one else present to speak for or against the request, Council member West moved to close the Public Hearing. Council member Felker seconded the Motion. Motion carried. Vote: 5-0.

Following discussion, Council member Allen moved to **approve** the request and instructed staff to prepare the ordinance on the rezoning. Council member Joyner seconded the Motion. Motion carried. Vote: 5-0.

17. Consider and act upon the appointment of a qualified citizen to the Urban Forestry Board to fill the existing vacant position and complete the unexpired term by Terry Smith. (City Secretary)

Council member Joyner nominated Carlos Gallardo. Council member Allen nominated Bruce Quinnell. Council member Felker moved to close nominations. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

Vote for **Carlos Gallardo** – 4-1. Voting Aye: Council member Felker, Council member Joyner, Mayor Pro-Tem Maso, and Council member West. Voting Nay: Council member Allen.

18. Consider and act upon changing polling place to one location – Staley Middle School. (City Secretary)

Scott Enderle was present to speak against changing polling locations to only one.

City Secretary Nan Parker recommended the City go back to one polling location, that being Staley Middle School. She stated that she needed to go back over her cost estimates from the past two elections.

Council member Felker moved to **table the item subject to allow for answers to:**

- a. Capacity for voters at Staley Middle School with the touch screen voting machines.
- b. May the City use Punch Cards for a Special Election.
- c. Exact costs of conducting a shared election at three polling locations versus exact costs of conducting a single election (unshared) at three polling locations; and conducting a shared election at one polling location and single (unshared) election at one polling location.
- d. What is the exact increase of costs based on the touch screen voting machines.

Council member West seconded the Motion. Motion carried. Vote: 5-0.

19. Consider and act upon approval of a Letter Agreement by and between the City of Frisco and DataProse to provide online collection of payments for City of Frisco Utility Bills and adoption of a Resolution authorizing the City Manager to execute the Agreement. (Administrative Services)

Council member Allen moved to approve the Letter Agreement by and between the City of Frisco and DataProse to provide online collection of payments for City of Frisco Utility Bills and adoption of **Resolution No. 03-11-215R** authorizing the City Manager to execute the Letter Agreement. Council member West seconded the Motion. Motion carried. Vote: 5-0.

20. Consider and give staff direction on amending the Sign Code Ordinance. Ordinance # 02-04-46. Tabled 10/21/03 (Planning & Development)

Council member Allen moved to remove the item from the table. Council member Felker seconded the Motion. Motion carried. Vote: 5-0.

Scott Ingalls was present to address the Council regarding the amendment of the Sign Code Ordinance. The Council gave direction to the Staff regarding changes to the sign ordinance. Staff was instructed to make the changes and bring the ordinance back to them for adoption.

21. Consider and act upon approval of an Ordinance prohibiting the use of motorized scooters on public streets. (Police)

Chief of Police Todd Renshaw was present to answer questions from the Council.

Larry Collins, 2430 Fairway, Richardson, Texas was present to address the Council speaking against the adoption of the ordinance prohibiting the use of motorized scooters on public streets.

Council member West moved to adopt Ordinance No. 03-11-96 prohibiting the use of motorized scooters on public streets. Council member Joyner seconded the Motion. Voting Aye: Council member West, Mayor Pro-Tem Maso and Council member Joyner. Vote: 3-2. **Motion did not carry** due to the lack of four votes.

Council member Felker **moved to adopt Ordinance No. 03-11-96** allowing usage of scooters on streets that have speed limits of 35 mph or less by individuals that are 18 years old and older for usage on the street. Council member Allen seconded the Motion. Motion carried. Vote: 4-1. Voting Aye: Council member Allen, Council member West, Mayor Pro-Tem Maso, Council member Felker. Voting Nay: Council member Joyner.

22. Consider and act upon selection of Construction Manager at Risk for the Soccer Complex. (City Manager's Office/SY)

Scott Young reviewed the RFP for a CM at Risk and recommended Centex for the Construction Manager at Risk for the Soccer Complex.

Following discussion, Council member West moved to allow the City Manager to negotiate a contract for the selection of Centex for the CM at Risk. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

23. Consider and act upon a Resolution of the City Council of the City of Frisco, Texas, declaring the necessity for acquiring by condemnation the fee simple title to 29.6+ acres of land for the soccer complex project, and ordering the condemnation of said property to proceed. (City Manager's Office/SY) (Sangani Tract)

Scott Young presented handouts to the Council to help clarify the location of the property that the Staff is seeking approval for condemnation.

Mr. Purefoy updated the Council on the history of the City's negotiations to purchase the property. He stated that the staff has tried numerous times to resolve the issue and to purchase the property. Mr. Purefoy stated there had been a For Sale sign on the property approximately one year ago and the city

offered to purchase the property for the asking price at that time. The property owner did not sell the property to the city and continued to increase the price of the property until the property became too expensive for the citizens (city) to purchase.

Council member Allen moved to adopt **Resolution No. 03-11-216R** Council member West seconded the Motion. Voting Aye: Council member Allen, Council member West, Mayor Pro-Tem Maso and Council member Joyner. Voting Nay: Council member Felker. Motion carried. Vote: 4-1.

Staff stated that they would continue to negotiate with Mr. Sangani to purchase the property from him.

24. Consider and act upon a Resolution of the City Council of the City of Frisco, Texas, declaring the necessity for acquiring by condemnation drainage easements for Custer Creek Drainage Improvements and ordering the condemnation of said property to proceed. (City Manager's Office/SY)

Council member Allen stepped down from the table due to a Conflict of Interest (his property is adjacent to the property being considered for condemnation).

Scott Young stated they were seeking condemnation for drainage easements for Custer Creek drainage improvements.

Council member Felker **moved** to adopt **Resolution No. 03-11-217R** therein declaring the necessity for acquiring by condemnation drainage easements for Custer Creek Drainage Improvements and ordering the condemnation of said property to proceed. Council member West seconded the Motion. Motion carried. Vote: 4-0. Council member Allen abstained due to a conflict of interest.

25. Consider and act upon adoption of a Real Property Exchange Agreement by and between the City of Frisco and CCIM I partnership and adoption of a Resolution authorizing the City Manager to execute the Agreement. Tabled 09/16/03, 10/07/03, 10/21/03 (City Manager's Office/SY)

Council member West moved to adopt of **Resolution No. 03-11-218R** therein authorizing the City Manager to execute a Real Property Exchange Agreement by and between the City of Frisco and CCIM 1 partnership subject to the allowing staff to continue to negotiate the soft costs in the building. Council member Joyner seconded the Motion. Motion carried. Vote: 5-0.

26. Consider and act upon approval of an Agreement by and between the City of Frisco and Lebanon Baptist Church and adoption of a Resolution authorizing the City Manager to execute the Agreement for development issues. (City Manager)

Mayor Pro-Tem Maso moved to **table the item until November 18, 2003**. Council member Joyner seconded the Motion. Motion carried. Vote: 5-0.

27. Consider and act upon approval of a Resolution authorizing the City Manager to enter into an Agreement by and between the City of Frisco and Charles Elliott for the purchase of 2.0+ acres of land that is located north of FM 720 and west First Street. (City Manager)

Council member West moved to adopt **Resolution No.03-11-219R** therein authorizing the City Manager to enter into an Agreement by and between the City of Frisco and Charles Elliott for the purchase of 2.0+ acres of land that is located north of FM 720 and west First Street. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

28. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the City Council to the Planning & Development Department, pursuant to Article IV, Section 1.07(C) of the Comprehensive Zoning Ordinance and/or Section 4.05 of the Subdivision Regulation Ordinance, regarding action taken by the Planning & Zoning Commission on any site plan or plat. Any written notice of appeal must be submitted to the Planning & Development Department.

The City Council did not appeal any of the decisions that had been made.

29. City Council discussion with City Staff concerning any actions required by City Staff as a result of any item on tonight's agenda.

- Information to the City's Website regarding the selection of the Wade property for the Recreation/Aquatic Center.
- City Secretary to provide information back to the City Council regarding polling locations/elections.

30. Discussion on Governance Monitoring of present City Council Meeting.

Council member West monitored the present City Council Meeting. Discussion only, no formal action was taken.

31. Adjourn.

There being no additional business, the meeting was adjourned at 11:50 p.m.

E. Michael Simpson, Mayor

ATTEST:

Nan Parker, City Secretary